

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL Y. PETERSON,

Plaintiff,

v.

CAROLYN W COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 13-cv-05943 JRC

ORDER GRANTING MOTION FOR
ATTORNEY'S FEES PURSUANT
TO 42 U.S.C. § 406(b)

This Court has jurisdiction pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P. 73 and Local Magistrate Judge Rule MJR 13 (*see also* Notice of Initial Assignment to a U.S. Magistrate Judge and Consent Form, Dkt. 5; Consent to Proceed Before a United States Magistrate Judge, Dkt. 6).

This matter is before the Court on plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (*see* Dkt. 26). Defendant has no objection to plaintiff's request (*see* Dkt. 27).

The Court may allow a reasonable fee for an attorney who represented a Social Security Title II claimant before the Court and obtained a favorable judgment, as long as such fee is not in excess of 25 percent of the total of past-due benefits. *See* 42 U.S.C. § 406(b)(1); *Grisbrecht v.*

1 *Barnhart*, 535 U.S. 789 (2002). When a contingency agreement applies, the Court will look first
2 to such agreement and will conduct an independent review to assure the reasonableness of the
3 fee requested, taking into consideration the character of the representation and results achieved.
4 *See Grisbrecht, supra*, 535 U.S. at 807, 808 (footnote omitted) (citations omitted). Although the
5 fee agreement is the primary means for determining the fee, the Court will adjust the fee
6 downward if substandard representation was provided, if the attorney caused excessive delay, or
7 if a windfall would result from the requested fee. *See Crawford v. Astrue*, 586 F.3d 1142, 1151
8 (9th Cir. 2009) (*citing Grisbrecht, supra*, 535 U.S. at 808).

9 Here, the representation was standard, at least, and the results achieved excellent (*see*
10 Dkt. 26, Attachment 3). *See Grisbrecht, supra*, 535 U.S. at 808. There has not been excessive
11 delay and no windfall will result from the requested fee.

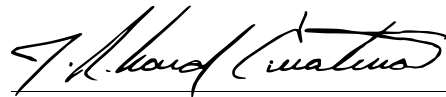
12 Plaintiff's total back payment was \$28,462.35 (*see* Dkt. 26, Attachment 3, p. 2). Plaintiff
13 has moved for a net attorney's fee of \$1,115.59 (*see* Motion, Dkt. 26, p. 1), and the Court has
14 considered plaintiff's gross attorney's fee of \$7,115.59; the EAJA award received by plaintiff's
15 attorney in the amount of \$5,362.22 (plus expenses of \$24.08); and the \$1,740.00 offset to that
16 EAJA award that was garnished pursuant to the Department of the Treasury's Offset program;
17 and plaintiff's request for an additional reduction of \$2,353.70 (*see id.*; *see also* Attachments 3,
18 4, 6, 7). *See* 31 U.S.C. §§ 3711(a), 3716(a); *Astrue v. Ratliff*, 560 U.S.C. 586, 589, 593, 130 S.Ct.
19 2521, 2524, 2527 (2010); *Parish v. Comm'r. Soc. Sec. Admin.*, 698 F.3d 1215, 1221 (9th Cir.
20 2012).

21 Based on plaintiff's motion and supporting documents (*see* Dkt. 26, Attachments 1, 2, 3,
22 4, 5, 6, 7), and with no objection from defendant (Dkt. 27), it is hereby ORDERED that
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1 attorney's fees in the amount of \$1,115.59 be awarded to plaintiff's attorney pursuant to 42
2 U.S.C. § 406(b).

3 When issuing the 42 U.S.C. § 406(b) check for payment to plaintiff's attorney herein, the
4 Social Security Administration is directed to send to plaintiff's attorney the net balance of
5 \$1,115.59, minus any applicable processing fees as allowed by statute.

6 Dated this 8th day of July, 2016.

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9 J. Richard Creatura
United States Magistrate Judge
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